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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,152	01/21/2004	Dean Larry DuVal	9496	4966
27752 7590 09/17/2007 THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION - WEST BLDG. WINTON HILL BUSINESS CENTER - BOX 412 6250 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER GRAVINI, STEPHEN MICHAEL	
			ART UNIT 3749	PAPER NUMBER
			MAIL DATE 09/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/762,152

Applicant(s)

DUVAL ET AL.

Examiner

Stephen Gravini

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12, 14, 15, 17, 18, 32, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 14, 15, 17, 18, 32, 38 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

Claims 12, 14-15, 17-18, 32, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chute et al. (US 2002/0069465) in view of Reynolds (US 6,190,420). The claimed invention is reasonably and broadly construed, in light of the accompanying specification, as being disclosed by Chute as comprising:

a) monitoring an operating temperature of a drying apparatus during a drying cycle of said drying apparatus at paragraph [0087]; and

b) spraying a fabric treatment composition comprising a perfume and a treatment material onto a fabric article during said drying cycle of said drying apparatus, said spraying application occurring after said drying apparatus has reached a first control operating temperature and after said drying apparatus has reached a second operating temperature but before said drying apparatus has reached a third operating temperature at paragraphs [0088]-[0092]. It is noted that all driers have a heating sub-cycle (from ambient to operational temperature), a constant operational temperature sub-cycle, and cooling sub-cycle (from the operational temperature to ambient). Chute discloses the claimed invention, except for the claimed temperature ranges of about 60/70° C and about 25/20° C. Reynolds, another method of treating fabric, discloses temperature ranges of about 60/70° C at column 1 lines 19-24 and about 25/20° C at column 4 lines 31-43 (wherein that lower temperature corresponds to ambient temperature which is inherently disclosed in Chute paragraph [0089] and expressly disclosed in Reynolds because it necessarily follows that a drying cycle without heating

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applied will approach ambient temperature). Also Chute in view of Reynolds discloses the claimed invention, except for the claimed specific weight percentages, operating temperatures, boiling or flash point, or selected group material. It would have been an obvious matter of design choice to provide specific values as claimed since the teachings of Chute in view of Reynolds would perform the invention as claimed regardless of the claimed specific values.

### ***Double Patenting***

Claims 12, 14-15, 17-18, 32, 38, and 39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10-19 of copending Application No. 10/839,549. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been an obvious matter of design choice to claim the present application specific parameter values, since both applications would perform the claimed invention regardless of the claimed value.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

Applicant's arguments filed August 16, 2007 have been fully considered but are moot in part based on new grounds of rejection.

*double patenting*

The double patenting rejection is not argued or terminally disclaimed such that the rejection is believed proper and maintained.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on 571 272 6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG  
September 13, 2007

*Stephen Gravini*